Decision 01-03-029 March 15, 2001

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Southern California Edison Company (E 3338-E) for Authority to Institute a Rate Stabilization Plan with a Rate Increase and End of Rate Freeze Tariffs.	Application 00-11-038 (Filed November 16, 2000)
Emergency Application of Pacific Gas and Electric Company to Adopt a Rate Stabilization Plan. (U 39 E)	Application 00-11-056 (Filed November 22, 2000)
Petition of THE UTILITY REFORM NETWORK for Modification of Resolution E-3527.	Application 00-10-028 (Filed October 17, 2000)

OPINION REGARDING THE EMERGENCY MOTION SEEKING TO PREVENT THE UTILITIES FROM IMPLEMENTING LAYOFFS

I. Summary

In this decision, we consider the "emergency motion" that was filed on January 8, 2001 by the Coalition of California Utility Employees (CCUE). CCUE's motion seeks to prevent Pacific Gas and Electric Company (PG&E) and Southern California Edison Company (SCE) from laying off workers until the Commission has had a full opportunity to review such proposals.

The motion of CCUE raises the issues of whether the proposed layoffs by the utilities will affect the utilities' obligation to furnish and maintain adequate, efficient, just and reasonable service, and whether the utilities' actions will affect

the safety, service and reliability of the electricity system. SCE proposes to layoff 1,450 employees over the next several months, in addition to the 400 employees in the Transmission & Distribution Business Unit (T&D) which were announced in December 2000.[1] PG&E has announced that it is releasing 325 contract workers and hiring hall employees, and that another 675 reductions will occur over the next several months if PG&E's cash flow situation is not resolved.

We conclude that the layoffs that PG&E and SCE have implemented, and the reduction in overtime hours, have reduced the level of service below what customers expect as an adequate, efficient, just and reasonable level of service. The upcoming layoffs as proposed by the utilities will further exacerbate the decline in the level of service. We are concerned that the potential ill-effects of reducing staff during the winter storm season could increase reliability problems. We are also concerned that using estimated bills could result in some inaccuracies in calculating baseline usage. The utilities acknowledge that the cost savings from the layoffs will not materially improve their financial condition. CCUE's motion is therefore granted. PG&E and SCE are directed to take steps to rescind the layoffs which adversely affect their level of service in answering customer telephone calls, outages and service problems, and monthly reading of meters, and are barred from engaging in future layoffs which adversely affect the level of service in these areas.

CCUE's motion and the pleadings of other parties have alerted us to the possible effects that the utilities' proposed measures could have on costs incurred

[1] During the February 5, 2001 hearing, SCE's witness testified that SCE was now contemplating a total job reduction of 2000 positions. (See footnote 3.)

during the rate freeze, and on the level of service provided for in the utilities' revenue requirement. We direct the utilities to establish a memorandum account to record the costs and savings associated with their proposed measures for possible future adjustment.

II. Background

A prehearing conference (PHC) in the above-captioned proceedings was held on January 10, 2001. One of the items discussed at the PHC was CCUE's motion. Parties were given until 9:00 a.m., on January 12, 2001, to file a response to CCUE's motion. SCE was directed to provide information about the time line and process of these layoffs, the number of people, the process that is to be undertaken, the impact of the layoffs on the safety, reliability, and the quality of service, and a copy of their collective bargaining agreements. After PG&E announced their cost-cutting proposal, PG&E was also directed to file a response containing the same type of information SCE was directed to provide. Responses were filed by PG&E, SCE, William P. Adams, and The Utility Reform Network (TURN). CCUE was permitted to file a reply to the utilities' responses on January 12, 2001.

Following the receipt of the responses, President Loretta M. Lynch, issued an assigned Commissioner's ruling (ACR) on January 23, 2001, in which she directed SCE and PG&E to provide additional information about the impact of the proposed layoffs. The ruling expressed concern about how the proposed layoffs would affect the obligation to serve of these two utilities. The ruling also announced that hearings on CCUE's motion would be held on February 2 and 5, 2001. SCE and PG&E filed their response to the ACR on January 25, 2001. CCUE and other interested parties were allowed to file a reply to the utilities' response on January 30, 2001. PG&E supplemented its response on January 26 and 30, 2001.

Hearings were held in San Francisco on February 2 and 5, 2001. Witnesses for PG&E and SCE testified at the hearings. In lieu of oral argument on CCUE's motion, interested parties were permitted to file briefs in support or in opposition to the motion on February 6, 2001. Briefs were filed by CCUE, PG&E, SCE, and TURN.

On the first day of hearing, counsel for SCE represented that SCE was planning to issue layoff notices for part-time or full-time employees on February 5 and 6th, and that the layoffs would be effective two weeks later. (1 R.T. 3.)

The Commission was planning to take action on CCUE's motion at the Commission's meeting of February 8, 2001. Notice of this contemplated action was provided to the public on January 29, 2001 in the Commission's agenda. Action on CCUE's motion was subsequently postponed to the Commission's continuation meeting of March 7, 2001.

Petitions to intervene were filed by the City of Oakland, the County of Alameda and the City of San Leandro on March 1, 2001, March 2, 2001, and March 5, 2001, respectively. They seek to intervene in this proceeding because of their interest in the suspension of the undergrounding of utilities by PG&E as part of PG&E's cost cutting measures. Although the petitions to intervene were not filed until after the hearings had been concluded, we will grant the petitions to intervene because their comments are pertinent to PG&E's cost cutting measures.

III. Position of the Parties

A. Position of CCUE

CCUE seeks an immediate, interim order preventing PG&E and SCE from implementing employee layoffs in response to the current electricity crisis in California. CCUE asserts that such an order is needed to provide the Commission with sufficient time and opportunity to thoroughly evaluate the effects of employee layoffs before they occur. At the time the motion was filed, SCE's proposed layoffs were to be implemented beginning January 26, 2001.

CCUE contends that eliminating the jobs of utility employees will hurt consumers without improving the solvency of the utilities. CCUE asserts that employee costs have nothing to do with excessive wholesale power costs, and that the savings from the layoff of employees would only pay for a very small portion of ongoing electricity costs. In addition, if layoffs occur, CCUE states that the utilities would incur immediate obligations for severance payments, which will decrease the utilities' limited cash reserves.

CCUE points out that according to SCE's announcement to its employees on January 5, 2001, the proposed layoffs and reductions "will result in reduced service levels" and customers "ultimately may wait longer for service, wait longer to talk to a customer service representative, wait longer to have power restored in an outage, and experience reduced reliability."

According to SCE, the proposed major actions and reductions will affect the following units, among others: Customer Service Business Unit (CSBU), T&D, and the Generation Business Unit (GBU). The following are some of the expected effects on these three business units.

CSBU

- Read residential and small commercial meters bimonthly; continue monthly billing using estimated billing in alternate months.
- Reduce phone center service levels.
- Reduce service levels for processing new connections.
- Reduce/eliminate customer outreach/support programs
- Reduce billing and payment options.
- Reduce service to major customers.

T&D

- Reduce infrastructure replacement work. Halt substation equipment program and all reliability stabilization and improvement programs.
- Lengthen response time for new customer connections.
- Lengthen outage response time, except in life-threatening situations.
- Reduce pole replacement program by 50%.
- Discontinue SCE funding for added facilities/generator interconnections.
- Reduce overtime for emergency and outage call outs.

GBU

- Defer low-priority nuclear betterment projects.
- Defer coal maintenance projects.
- Defer hydro facility enhancements.
- Reduce service levels to internal/external customers.

CCUE contends that the Commission authorized appropriate funding levels for the utilities so that they could provide reliable and safe electric service to consumers. These funding levels are determined, in part, by the appropriate level of employment needed for each utility to provide reliable service. Diverting money for distribution system maintenance or customer service to pay for procurement of energy will reduce reliability.

CCUE contends that due to the high number of outages in January and March 1995 in PG&E's service territory, the Legislature mandated increases in PG&E's base revenue for 1997 and 1998, and required that the money be used to improve system safety and reliability. (Pub. Util. Code § 368(e).) CCUE contends that the utilities should not be permitted to reduce its workforce again, or system reliability will be threatened. CCUE warns that if a typical winter storm hits, the utilities will not have the ability to respond to public safety emergencies in a timely manner if their workforce is drastically cut.

CCUE contends that if the utilities reduce their meter reading force, and meters are read every other month with an estimated bill for one month, that customers will not conserve because they will not be able to see the effect of reduced consumption in a reduced bill.

CCUE warns that if these layoffs occur, SCE and PG&E will lose skilled workers since the employees who are laid off are likely to receive offers elsewhere. CCUE says its will take years of training and an abundance of resources to bring a workforce back up to the same level of skill and competence.

B. SCE's Proposed Plan

1. Overview

SCE states in its January 12, 2001 pleading that, in response to the utility's financial distress, its management has ordered significant reductions in its spending activities. SCE asserts that these reductions will have the least immediate impact on service to its customers. According to SCE, the utility's cost containment and cash conservation (cost cutting) program, which was initiated to respond to the liquidity crisis, requires the utility to take immediate and significant steps, including job reductions, which will result in the severance of some employees. SCE acknowledges that "While service will not be at the high level we have traditionally provided, it will be the best service we are able to provide with the limited resources we have available."

According to SCE, the cost cutting program is part of SCE's efforts to identify areas of spending which could be reduced quickly and significantly, but with the least impact on customer service and without jeopardizing employee and public safety. SCE asserts that the objective of public and employee safety was reiterated to SCE's employees in Attachments B and C of the January 12, 2001 response.

2. Layoffs

SCE states in its January 12 response that it intends to reduce its workforce in a way that is cost effective, and minimizes severance expenses and litigation. SCE intends to use attrition as appropriate, and will eliminate non-SCE positions to achieve reductions. As an example, although SCE has announced a total job reduction of 1,850 jobs,[2] only approximately 260 of these jobs are represented by two major unions, the IBEW, Local 47, and the UWUA, Local 246. Of the 260 positions, approximately 100 are full-time positions, and of the 100, approximately 98 are expected to be reduced through attrition. SCE states that the balance of the 260 positions are either part-time or temporary positions, some of which will be eliminated as part of the normal turnover of the positions. SCE also points out that the bulk of the positions identified for reduction will be eliminated between April and June 2001.

SCE witness Decker testified on February 5, 2001 that the bulk of the 2,000 planned layoffs involve contractors. SCE does not provide pension benefits to contractors because they are not SCE employees. Approximately 199 people out of the 2,000 persons to be laid off are eligible for a package, but they are nonrepresented employees. The average size of a nonrepresented nonmanagement employee's severance package would be about $56,000. (2 R.T. 111-112, 114; Ex. 302, "Labor Reductions" table.)

SCE witness Grant testified that SCE does not normally call on contract and part time employees in the event of an emergency outage. Instead,

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[2] According to Attachment B of SCE's January 12, 2001 response, of the 1,850 positions, 400 contractor jobs have already been eliminated. The savings from the 400 contractor jobs amount to about $100 million. Another 1,450 layoffs (1,850-400) are still planned, although Attachment A of Exhibit 302 shows the total number of job reductions at 2,000. (2 R.T. 74-77, 106.) SCE witness Fellows testified that the 2,000 number, rather than the 1,850, is a better number to use because the total number of anticipated layoffs is part of an evolving process. (2 R.T. 106-107.)

SCE uses SCE employees, emergency contracts with contractors, and mutual assistance agreements to obtain additional help. Of the 1,850 planned and implemented layoffs, SCE witness Grant testified that those do not include employees who respond to outage and service calls, nor do they include maintenance personnel. He acknowledged that the layoffs could affect response time if there was a system wide emergency. Grant also acknowledged that if SCE replaces T&D system components less frequently, and does not replace some components until they actually fail, that there may be more failures. (2 R.T. 101-103, 105.)

3. Capital Spending

The January 12, 2001 response states that $465 million in cuts have been made in the capital spending programs. SCE states that management reviewed the budget to determine what cuts could be made that would cause the least damage to serving its customers. Given the magnitude of its financial condition, SCE acknowledges that these cuts in capital spending will have an impact on service, both immediately and in the long term.

Of the $465 million in capital spending reductions, it appears that T&D activities will account for about $314 million. These T&D reductions will include the following actions:

- Significantly reduce infrastructure replacement and eliminate new annual circuit reviews. Components will only be replaced when they actually fail or are judged by SCE's inspection program to be likely to fail immediately.

- Perform repairs only during normal work hours and not use overtime except in very rare circumstances, such as during outage incidents that may involve employee or public safety issues.

- Reduce the priority of new service connection work and perform this work during normal work hours, rather than on overtime, which will cause delay for new customer hookups.

- SCE funded undergrounding projects will be suspended.

- Expanding new circuits and substation capacity will be substantially reduced.

According to Attachment C of SCE's January 12, 2001 response, it is expected that T&D employee reductions will be small, and some may be attained through attrition. It is anticipated that contract crews and workers will be virtually eliminated.

4. Customer Service: Call Centers

SCE acknowledges that its cost cutting program will result in a reduction in the service that they provide to their customers. The response time for non-emergency requests will be longer. Residential and small commercial meters will be read bi-monthly rather than monthly. Requests for new service connections will take longer, and the phone center will not be able to respond to customer calls as quickly. SCE claims that employee and public safety will not be compromised. SCE also claims that it will continue to operate the system safely and in accordance with Commission regulations and sound operating practices.

SCE operates two call centers that operate 24 hours a day, seven days a week. The call centers employ approximately 650 telephone representatives and support personnel. Approximately 550 customer representatives answer the phones, and another 100 offer support. (2 R.T. 91.) SCE currently has no plans to lay off any of its telephone representatives. SCE implemented a hiring freeze in November 2000, which resulted in SCE not being able to replace some of the employees who left the company through normal attrition. SCE witness Hutchison testified that the call center has lost about 30 employees due to attrition since the hiring freeze. SCE expects to partially offset the impacts of the hiring freeze by using technology enhancements to decrease the length of time required to process customer requests and increase the telephone representative's availability. Even with these enhancements, SCE believes that the hiring freeze will increase the average speed of answer (ASA) time for telephone representatives responding to customer calls from 40 seconds to 50 or 60 seconds during peak call volume months.[3]

Due to the energy situation, Hutchison testified that SCE is experiencing call volume in January 2001 of more than 25% than normal. Hutchison agrees that call volumes typically increase following a rate increase, and when a new rate structure goes into effect. Hutchison states that it will be a challenge to meet the PBR call center service level goals that are referred to on page 3 of Exhibit 302 at lines 6 and 7, but that SCE is committed to meeting those objectives. SCE did meet those goals in January 2001. (2 R.T. 88-89.)

[3] For SCE, the peak call volume months are typically May through September.

5. Customer Service: Connections, Maintenance and Repair

SCE's Field Services Organization is responsible for turning electric service on and off when customers relocate within SCE's service area. SCE does not foresee reducing this workforce. As a result, SCE does not expect any impact on the time required to provide these customer connections and disconnections.

For the installation of new line and service connections, SCE's T&D organization is responsible. The first priority of T&D is to respond to emergency calls. The second responsibility is outage response and service restoration. The third priority is inspection and maintenance of SCE's facilities. The fourth priority is new line and service connections. These new line and service connections will only be performed during regular work hours, and the expenditures will be less than originally forecast in SCE's 2001 T&D budget.

SCE states that initially, all unplanned outage responses are treated as an emergency until SCE identifies the outage as a non-emergency.[4] When an unplanned outage is determined to be a non-emergency, it receives a lower priority than an emergency response. Non-emergency unplanned and planned outage restoration is performed primarily during regular work hours. However, worker and public safety remains SCE's highest priority and SCE will not leave a work site in an unsafe condition. The additional time that it will take to restore service depends on the amount and timing of outages and service calls that SCE experiences in the future. SCE anticipates that some outages may be lengthened, but the overall frequency of outages will not be affected in the near term. SCE

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[4] SCE describes possible emergency situations as electric wires on the ground, or facilities in a condition that endanger workers and/or the public.

does not anticipate that the initial response to an emergency situation will be impacted.

SCE states that it has not taken any action that would defer maintenance that is required to be performed. However, SCE has previously instituted a comprehensive infrastructure replacement program and has requested funding to continue this program in its Notice of Intent for the 2002 General Rate Case that was filed with the Commission in July 2000. SCE describes this program as a systematic approach designed to solve the potential issues related to SCE's aging T&D infrastructure. The cost cutting program has significantly reduced and deferred the infrastructure replacement program and eliminated the annual circuit review program. SCE states that it will continue to operate the system in a safe manner, but it will replace components less frequently, and may not replace components before they actually fail. As a result, long-term reliability of the T&D system will degrade, or alternatively, costs to maintain the system will increase, or both. (2 R.T. 105.)

SCE states that it is complying with the inspection and maintenance requirement of General Order (GO) 165 (Pub. Util. Code § 364) for Commission jurisdictional facilities, and with the Independent System Operator (ISO) inspection and maintenance requirements as described in Section 330(i). SCE states it will continue to conduct all required inspections, condition rate the facilities, and repair components consistent with their condition rating.

6. Customer Service: Billing

One of the key elements of SCE's proposed cost cutting program would be to move from a monthly to bi-monthly meter reading for its small customers, primarily residential and small commercial customers. SCE states that prior to 1981, it routinely read most of its meters on a bi-monthly basis.

Customers would continue to receive a monthly bill, with the "non-read" month's usage estimated from prior meter reads. SCE claims that this system will produce bills that closely track actual usage month to month for the majority of customers. SCE witness Hutchison estimates that about 3.3 million out of 4.5 million customers would be affected by SCE's reading of meters every other month. (2 R.T. 92.)

Hutchison acknowledges that if there are three levels of variable rates and estimated usage estimates a customer's usage above one of the cutoffs when the actual usage is below, the customer could be overcharged that month. (2 R.T. 90.) Nevertheless, SCE asserts that the change to a bi-monthly meter read will not negatively impact the calculation of the customer's monthly baseline charges. That is because SCE modified its estimation algorithm in 1999 to credit customers for their full baseline allowance. Hutchison testified that if a customer was under baseline at any point in the last 12 months, SCE would not bill them more than the baseline amount for the estimated month. (2 R.T. 89-90.) As a result, SCE anticipates that customers will continue to receive the full benefit of their baseline allocation.

7. Financial Results

SCE witness Fellows agrees that if SCE implements its cash conservation measures, including the layoff of management and reducing the rank and file by an additional 1,000 employees, the total savings would amount to less than one month's worth of power at current prices. However, SCE's cost containment measures is to try and conserve cash in every way that they can, so that the lights can be kept on as long as possible. (2 R.T. 79-83.)

SCE witness Simpson testified that SCE suspended payment on its long term debt and maturing commercial paper, and interest payments on that debt, which amounts to about $640 million. SCE has also suspended payment to its qualifying facility contracts, which amount to about $480 million at present. SCE has also suspended payments to the Power Exchange in the amount of about $300 million, but the accrued amount is significantly greater than that. By the end of March 2001, maturing commercial paper and pollution control bonds will add another $150 million. In addition, there will be ongoing QF payments, accrued amounts for the cost of power, and liability associated with the power that the Department of Water Resources acquired. (2 R.T. 137-139.)

Simpson testified that the cost savings from the layoffs will be used in various ways to make various payments. It could be used to pay SCE's debt obligations, to pay ongoing expenses, for procurement, or for a variety of other matters. (2 R.T. 145, 147-148.)

SCE contends that none of the cases or code provisions that CCUE cite apply to the present circumstances. SCE contends in its response that it can only respond to the current situation it finds itself in by conserving cash, which results in the need for the reducing expenses and for layoffs of employees. SCE also contends that CCUE's motion effectively results in the Commission micromanaging SCE's management efforts to address the present problems. SCE argues that this is a reversal of CCUE's past position, wherein the "unions have aggressively opposed any Commission intervention in labor/management matters."

C. PG&E's Proposed Plan

1. Overview

PG&E states that in Fall 2000, PG&E initiated a series of actions to begin preserving its remaining cash so that it could continue operating the utility so that it could deliver services to its customers. Assuming the crisis continues, PG&E's cash conservation measures will result in over $160 million of savings for the first six months of 2001. These savings will come from reducing department budgets by over $40 million, deferring an additional $118 million of expenditures, and freezing merit increases for management and administrative and technical employees. Some of the savings were also achieved through the release of approximately 180 to 193 contractors and hiring hall employees,[5] as well as through the deferral of contributions to long-term disability and nuclear decommissioning trust funds and the suspension of charitable contributions. The savings were also achieved by limiting new hires and suspending non-critical travel and expenses.

As PG&E's financial situation worsened, PG&E announced on January 11, 2001, the suspension of its common stock dividend for the fourth quarter on 2000, and its preferred stock dividend. That will save an additional $116 million.

PG&E also announced on January 11, 2001 that it was taking additional steps to save another $180 million over the same six-month period. These savings will come from the deferral of capital expenditures, and the immediate release of 325 contractors and hiring hall employees. If the cash flow situation is not resolved, PG&E plans additional deferrals of capital expenditures, deferring determination of performance incentive payments, and

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[5] According to one of PG&E's witnesses, the release of these contractors and hiring hall employees saved approximately $9 million.

additional potential layoffs of 675 contractors and hiring hall employees.[6] As a result of these measures, PG&E acknowledges that some customer services will degrade. However, PG&E states that it will continue to provide all critical services, operate the system safely, and continue to deliver energy to all its customers when it is available.

2. Layoffs

According to PG&E's response, the contract workers supplement PG&E's regular non-bargaining unit workforce. These contract workers are obtained from temporary worker agencies that are under contract with PG&E. Approximately 200 contract workers out of the 325 were released.

The "hiring hall employees supplement the company's regular bargaining unit workforce to help meet both sustained and project-related staffing needs." The hiring hall employees are not guaranteed a duration of employment, and can be released based on changing business needs. According to PG&E, there is no specified notice requirement in the collective bargaining agreement for releasing these hiring hall employees. Approximately 125 hiring hall employees will lose jobs.

Of the 325 positions, 100 of these work in the area of electric and gas transmission and distribution relating to new business, Rule 20A work, work required by others, and gas pipeline replacement and meter protection. Another 75 work in transmission and distribution pole replacement, and 25 in meter reading.

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[6] By the time hearings were held on CCUE's motion to prevent layoffs, PG&E had already laid off the 325 workers. The additional 675 layoffs are not being planned for February 2001. (1 R.T. 2, 11.)

PG&E expects that the other 675 announced reductions will occur over the next three to six months if PG&E's cash flow situation has not been resolved. Of the 675, they will be a mix of T&D workers, as well as technical contractors. PG&E's witnesses do not anticipate that any of the 675 employees will come from the call centers or power generation maintenance. (1 R.T. 13, 47.)

PG&E states in its response that its workforce reductions:

> "[W]ill lead PG&E to suspend some activity associated with Rule 20A construction, delay new business connections, delay non-critical work required by others, and delay non-critical gas pipeline replacement and gas meter protection activities. It will also lead to the deferral of some electric transmission work and distribution pole replacements which do not present immediate safety issues. It will delay the implementation of some information technology projects. Finally, it will result in PG&E reading some meters on a bi-monthly, rather than a monthly, schedule.
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> "PG&E's actions will reduce PG&E's ability to maintain current customer response levels at call centers. They may affect the response time for full restoration of power during outages.
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> "PG&E's actions will not affect safety, and are not expected to have any immediate effect on reliability. In the long run work deferred must be completed, or the deferral will begin to have an [e]ffect on reliability.
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> "PG&E's actions will have an effect on customer service quality. Call center response time is likely to increase, as is the time needed to respond to non-safety related service requests."

PG&E's witness acknowledges that if a layoff occurs, and PG&E rehires at a later date to refill the position, there is no guarantee that they will get the same person back. It is whoever is available at the hiring hall at that point in time. (1 R.T. 13.) However, PG&E's experience has been that they do not have problems refilling these jobs with experienced workers. (1 R.T. 33.)

3. Capital Spending

According to PG&E's second supplement, part of the $180 million in savings will result from savings in gas transmission capital projects and general services projects. For gas transmission, several projects to replace gas transmission facilities will be deferred, including the replacement of compressor station control systems, and retirement/replacement of several sections of pipeline. PG&E states that these projects are of lower priority in the overall pipeline management program, and are not expected to affect service reliability. Other savings will come from the deferral of the purchase of replacement vehicles, equipment and furniture from general services. These deferrals may increase maintenance costs. Also, lower priority building and common facility projects, including consolidations and scheduled replacement work will also be deferred.

As part of its savings measures, PG&E had originally planned to make capital investments for minor gas pipeline system upgrades and replacement to enhance reliability. Instead, PG&E will perform maintenance and repair work on these facilities to assure safe system operation, and has rescheduled the replacement work for later in 2001 or 2002. For the electric system, PG&E will defer adding protective devices to limit the impact of outages to only the affected areas and underground cable replacement projects to later in 2001 or to 2002. Since the majority of this work was scheduled for the second half of 2001, PG&E expects the impact on system reliability to be minimal. These steps result in a savings of $2.7 million in the near term, and no additional costs are expected to result from rescheduling this work.

PG&E had planned to perform engineering, design and some construction work to complete certain substation equipment replacement and system automation projects in the first half of 2001. PG&E now plans to reschedule this work for the second half of 2001 and possibly 2002. PG&E will continue to perform maintenance and repairs on these facilities as well as perform preliminary engineering work to complete the planned work in 2001. The impact on system reliability is expected to be minimal with no impact on the safe operation of T&D facilities. Rescheduling the work will result in saving approximately $9.6 million in the first part of 2001. Completing the work on the revised schedule may increase costs by approximately $500,000 for continuing maintenance in lieu of replacement and escalation of labor and material costs.

As part of its savings measures, PG&E had planned to perform follow-up inspections in the first half of 2001 to verify locations preliminarily identified by meter reading personnel as candidates for gas meter protection work. PG&E now plans to reschedule these inspections for the second half of 2001. This will result in a savings of approximately $300,000 with no impact on the meter protection program or gas system safety.

PG&E will also defer certain projects relating to power generation from the first and second quarter of 2001 to the second through fourth quarter of the year, including the purchase of tools and equipment, non-critical facility studies, and repair, replacement and improvement work at various facilities. PG&E states that these short-term cash conservation deferrals will not affect the ability of PG&E's generation to produce a reliable supply of electricity this year.

However, performing most of this work in the second half of this year or early into 2002 is essential to maintaining utility generation capability beyond 2001.

4. Customer Service: Call Centers

As part of PG&E's Fall 2000 cost cutting measures, it imposed a hiring freeze and limits on overtime at the call centers. The January 11, 2001 layoffs had virtually no impact on call center staffing, with only two hiring hall call center employees being let go. These two employees did not answer the telephones, but instead worked in the paper support portion of the call center operation. At the beginning of January 2001, PG&E lost about 28 customer service representatives through attrition. Fifteen of the 28 positions have been refilled. PG&E is continuing to fill those positions because PG&E wants to maintain the staffing level needed to answer the calls. (1 R.T. 56-57.)

PG&E witness Lytton does not consider the current calling volumes to be normal. (1 R.T. 57.) In January 2000, PG&E answered about 1.3 million calls. In January 2001, PG&E answered 2.3 million calls. This exceeds the number of calls that occurred during other major outages in recent years. (1 R.T. 59-60.)

PG&E typically has between 580 and 600 customer service representatives that answer the phones. Due to the high call volumes, call center representatives were being told to work overtime. PG&E has decided to slowly ramp down its use of overtime for the call center to a normal of about 15 to 25% overtime. (1 R.T. 55-56.)

PG&E states that the cost cutting measures have hampered its ability to respond to the significant growth in call volumes resulting from the present energy crisis. These call volumes have increased by 25% as compared to the same time period last year, and an overall call volume increase (including those answered by the interactive voice response system) of 85%. As a result, PG&E is experiencing longer ASA wait time and a higher potential for "busies." PG&E states, however, that it appears to be meeting the Commission's requirements presently.

PG&E states that any deterioration in customer service and the inability to meet the ASA or busies standard will not affect safety. That is because PG&E has implemented procedures to ensure that emergency and safety related calls receive priority handling and are routed immediately to a customer service representative. This is being accomplished by adding options in the initial voice response menu when calling PG&E.

PG&E states that under D.95-09-073, PG&E is required to achieve a less than 20 second ASA time on a monthly basis during normal conditions. PG&E is also required to have no more than 1% busies during normal conditions and no more than 3% busies during outages. PG&E states that in D.96-11-014, the Commission determined that it is inappropriate to use these technical standards as a measure of acceptable performance when the circumstances affecting that performance are anything but normal.

PG&E also points out that emergency standards for busies are established under GO 166, as amended by D.00-05-002. These emergency standards apply only to emergencies defined as "measured events." A measured event are outages due to "non-earthquake weather related causes affecting between 10% (simultaneous) and 40% (cumulative) of a utility's electric customer base." A "Level 1" standard is less than 30% busies and is presumed reasonable. A "Level 2" is 50% busies and performance is presumed unreasonable if busies exceed this level. Performance between Levels 1 and 2 is not subject to a presumption.

PG&E requests that the Commission temporarily suspend the call center response standards in D.95-09-073 and GO 166 until the present wholesale power crisis is resolved and the cost cutting measures are no longer needed. PG&E states that this level of performance may not be sustainable given the customer calls regarding the energy crisis, increasing energy bills, and the potential for rotating outages. PG&E proposes that the Commission adopt for PG&E the service level standard that was approved for SDG&E in its PBR proceeding. That standard is 80% of calls answered in 60 seconds. PG&E states that it believes it can maintain that standard even if the layoffs announced on January 11, 2001 are implemented.

5. Customer Service: Connections, Maintenance And Repair

PG&E witness Yura testified that PG&E's Exhibit 301 contains six tiers of cost cutting measures. She testified that Tier 1, Tier 2, and some selective items in Tier 3A have been implemented. Additional layoffs beyond the 675 would be necessary if Tiers 3B, 4A and 4B were implemented by PG&E. The layoffs in these tiers are based on the categories of work that would be impacted. Some of those employees would include full time regular employees who are entitled to severance and other benefits. When Tier 3 and above actions are taken, those are actions which impact customers. Tier 4 is when PG&E is trying to keep basic business going, and Tier 4B is where you try to do all you can to maintain safety. (1 R.T. 25-28.)

PG&E states that some of the planned layoffs will result in system lead times for service to new customers increasing to about 30 weeks instead of the current system-wide average lead time of about 24 weeks. Actual lead times vary from a low of about 15 weeks to a high of about 39 weeks. The anticipated increase in time for connection of new customers will not affect safety or reliability. PG&E states that there will be no impact on new customers requesting existing gas or electricity service to be turned on, or on customers requesting that service be turned off.

PG&E states that its outage response has five major elements: receiving reports of outages via the call centers or local offices; responding to and investigating these reports; taking necessary actions to render the condition safe; restoring service; and fully restoring the facilities to normal operation. PG&E states that the announced layoffs, i.e., both the immediate reduction of 325 contract and hiring hall employees and the potential reduction of an additional 675 employees, will not change PG&E's handling of the first three outage response elements, including making the condition safe. The last two elements, restoring service and restoring facilities to normal operation, may be delayed beyond typical time frames if the restoration work involves extensive overtime. The use of extensive overtime will be determined on a case-by-case basis by local emergency response employees. The impact of delayed restoration would most likely be noticed during major storm restoration efforts or other responses involving extensive system repairs or restoration work. PG&E anticipates that the announced layoffs will not likely affect typical emergency response efforts to such things as routine electric outages, gas leaks, or weather related damage.

PG&E witness Dasso testified that PG&E does call upon hiring hall employees when there is an emergency electrical or gas outage. It depends on the type of outage, and the type of facilities that are affected. PG&E does not typically call on contractors for electrical or gas emergencies unless specialty work is needed. Temporary workers are called on for electrical emergencies, depending on where the incident occurs, and who is best able to respond. (1 R.T. 38-39.)

PG&E is not deferring its maintenance work except in the area of pole replacements. The announced employee, contractor and overtime reductions will affect the pole replacement program of the maintenance plan required in response to GO 165. However, none of its trained facilities inspectors have been laid off, or are targeted to be laid off. Cost savings resulting from deferred replacement will save about $13 million in 2001. PG&E states that the cost of deferring the replacement of poles that do not immediately pose a safety risk is that costs may escalate the longer this is deferred. The pole replacements that are being rescheduled are not expected to extend PG&E's five-year pole replacement plan.

PG&E states that the announced layoffs will not affect compliance with the maintenance and inspection rules. All of the required inspections and maintenance will continue to be conducted in accordance with PG&E's existing maintenance and inspection program.

6. Customer Service: Billing

PG&E states that the initial layoff of 325 positions will have a minimal effect on the frequency of meter readings. Of the 325 positions, only seven performed the meter reading function. PG&E has 750 meter reading positions. As a result of the loss of positions, PG&E states that a relatively small number of accounts will either be "estimated" in lieu of actually being read, or will be read a few days outside of the normal 27 to 33 days. Since the total baseline allowance is calculated based on the daily baseline allowance times the number of days in the billing period, the appropriate baseline allowance will be applied to both the estimated and the extended billing period bills.

PG&E witness Lau testified that since about 1% of the meter readers have been reduced, that will result in about 1% of the meters being read outside of the normal 27 to 33-day period. The number of meters will grow to 10% if the additional 675 layoffs are implemented. (1 R.T. 62-63.)

PG&E witness Lau agreed that gas rates do change from month to month. If someone gets an estimated bill, PG&E will estimate the usage for that customer, and then apply the actual rate in effect for that month to the estimated usage. In the following month, PG&E will bill the customer for the actual read, minus what was already estimated for the customer. If there was a change in the rate, Lau believes neither the customer or PG&E gets the benefit if usage is estimated, because PG&E is estimating usage based on what they believe actual usage would have been. (1 R.T. 63-66.)

PG&E points out that under Electric Rule 9 and Gas Rule 9, PG&E is required to read customer meters on a monthly schedule, except when the meter cannot be read due to "unusual conditions" or conditions "beyond the meter reading entity's control." In those case, PG&E states it is authorized to estimate a customer's usage for billing purposes. PG&E requests that the Commission either confirm that the present wholesale power and financial crisis constitutes "unusual conditions" which are "beyond the meter reading entity's control" or the Commission should suspend the requirements of Rule 9 that meters be read every month.

PG&E states that the layoffs do not affect the employee pension plans because none of the laid off employees are eligible to participate in the plan.

If PG&E's financial situation is remedied, all of the projects and items that have been suspended will be reactivated. However, the deferral of these activities will increase costs.

7. Financial Results

In PG&E's testimony in response to the ACR, PG&E states that its cost cutting measures have been undertaken to address short-term liquidity, i.e., to conserve vital cash reserves so that PG&E can meet its day-to-day obligations necessary to keep the lights on and the gas flowing. PG&E states that its borrowing capacity has been exhausted, and its available cash is rapidly being depleted. Given these circumstances, PG&E is trying to preserve enough working cash to continue operating the utility so that it can continue to deliver key services to customers. The cost cutting measures are a short-term measure to conserve scarce cash resources until PG&E's ability to borrow on reasonable terms is restored.

PG&E states that the layoffs and other cash conservation measures that have been undertaken are designed not to immediately affect safety and reliability. However, if the financial crisis continues or worsens, these and other measures could impact reliability over time.

PG&E states that its savings will not materially impact PG&E's overall financial circumstances, nor was it intended to do so. The debt burden and the ongoing electric power costs that PG&E is incurring are too large for any cash reductions to cover. PG&E states that its cash conservation measures will allow PG&E to free up additional cash to allow it to continue delivering critical services to its customers.

D. Other Parties' Positions

The response filed by Adams expressed concern over the reduction in the frequency of meter reading to once every two months while being billed on a monthly basis using an estimated read for one month. Adams contends that an estimated read "can easily push one's billed usage onto the Nonbaseline rate and increase the month's bill by a few dollars." Adams asserts that these actions will also result in more complaints to the utilities, which will have less staff to field the calls, and lead to an increase in calls to the Commission. Adams also expressed concern over the reduction in maintenance of poles and tree trimming and how those factors may affect storm-related outages.

TURN supports the relief that CCUE is seeking, but on other grounds. TURN contends that if the layoffs occur, SCE's customers would be left paying for distribution services that SCE admits it would not be providing. However, under existing ratemaking, SCE would continue to recover distribution-related operating revenues pursuant to the performance based ratemaking mechanism adopted in D.96-09-092. SCE's revenue requirement was established based on a level of service that SCE admits it would no longer be providing after the layoffs. If the excess distribution revenues are used to offset procurement costs, TURN contends that ratepayers will be at risk of paying distribution rates for a level of service that will not provided, and for paying procurement costs that do not reflect that SCE has diverted distribution revenues to cover some portion of those costs. That is, the Transition Revenue Account (TRA) will continue to record procurement costs in excess of the revenues collected from the utility's generation rate component, without reflecting the fact that SCE had diverted distribution revenues to pay for a part of the procurement costs.

TURN contends that the Commission should prohibit the layoffs on an interim basis so that the Commission can consider the associated impacts on utility customers in terms of the quality of service and the ratemaking impact. During this time, TURN states that the Commission can then determine if SCE should be directed to focus on other opportunities to finance its cash flow problems through distribution cost reductions that would not adversely impact service to the utility's distribution customers, or by other savings that would not reduce the quality of service provided to SCE's distribution customers.

If the Commission determines that CCUE's motion should not be granted, TURN contends that at a minimum, the Commission should adopt accounting practices similar to those adopted when the Commission issued the "Workforce Reduction Rate Mechanism" decision in 1993, D.93-03-025 (48 CPUC2d 413). In that decision, the Commission directed PG&E to establish a memorandum account to track the costs and savings associated with a major work force reduction in order to develop an appropriate regulatory response after further consideration. TURN recommends that the Commission adopt a similar mechanism to reduce the likelihood that SCE's customers will be inappropriately double-charged for procurement costs or overcharged for reduced distribution services.

TURN further recommends that if CCUE's motion is not granted, that the Commission should make clear that any reduction in SCE's service quality performance due to the layoffs will not be excused in future reviews of that service quality for purposes of calculating penalties under SCE's PBR mechanism or under any other authority the Commission has to impose such penalties.

IV. Discussion

A. Overview

It is clear that the Commission has the authority to ensure the safety and reliability of a public utility's system. Pub. Util. Code § 451 provides in pertinent part that:

> "Every public utility shall furnish and maintain such adequate, efficient, just, and reasonable service, instrumentalities, equipment, and facilities… as are necessary to promote the safety, health, comfort, and convenience of its patrons, employees, and the public."

The Commission may supervise and regulate every public utility in the state and may do all things, whether specifically designated in this part or in addition thereto, which are necessary and convenient in the exercise of such power and jurisdiction. (Pub. Util. Code § 701.) Also, the Legislature has found and declared that "the delivery of electricity over transmission and distribution systems is currently regulated, and will continue to be regulated to ensure system safety, reliability,… for all market participants. (Pub. Util. Code § 330(f).)

Pub. Util. Code § 761 provides in pertinent part:

> "Whenever the commission, after a hearing, finds that the rules, practices, equipment, … or service of any public utility, or the methods of … distribution, transmission, storage, or supply employed by it, are unjust, unreasonable, unsafe, improper, inadequate, or insufficient, the commission shall determine and, by order or rule, fix the rules, practices, equipment, appliances, facilities, service, or methods to be observed, furnished, constructed, enforced, or employed."

We must consider whether the layoffs and cost cutting efforts of SCE and PG&E affect the ability of these utilities to furnish and maintain adequate, efficient, just and reasonable service, and whether such efforts endanger the safety, service and reliability of the utility systems that they operate. We must also consider whether these layoffs are justified given the utilities' acknowledgement that the cost cutting measures will not materially affect their financial condition. In addition, both CCUE and TURN have raised the issue that the cost cutting measures of SCE and PG&E have or will reduce the level of service and reliability, which the utilities have been compensated for in their revenue requirement to provide a certain level of service and reliability. TURN also raises the argument that costs incurred during the rate freeze cannot be recovered from the distribution rate component as a result of the utilities' cost cutting efforts.

B. Jurisdiction

Before discussing the above arguments, we first turn to the argument of SCE and PG&E that the Commission should deny CCUE's motion on the grounds that the Commission lacks jurisdiction to interfere in the collective bargaining agreements. We do not agree with the position of the utilities.

Although CCUE's motion involves the layoff of represented workers, the issue that concerns the Commission is whether the layoffs and cost cutting measures affect the utilities' provisioning of "adequate, efficient, just, and reasonable service" that "are necessary to promote the safety, health, comfort, and convenience of its patrons, employees, and the public." (Pub. Util. Code § 451.) The collective bargaining agreements cover, among other things, the terms and conditions of employment and layoffs. Surely, the Commission's authority to regulate the utilities in this regard should not be made subordinate to the collective bargaining agreements between the utilities and its represented workers. (See D.95-06-057 [60 CPUC2d 427, 428].) The various cases cited by the utilities do not address this kind of conflict, and are therefore distinguishable. We conclude that the collective bargaining agreements do not govern nor control this Commission's statutory duty to ensure that the SCE and PG&E provide adequate, efficient, just and reasonable service.

C. Quality of Service

Most of the layoffs that have already occurred affected contractors, hiring hall employees, and temporary and part-time workers. The layoffs contemplated by SCE for February 2001, and by PG&E in the next several months, appear to affect the same category of workers. Based on the pleadings and the testimony presented at the hearings, the layoff of these workers has adversely affected the T&D operations, the call centers, meter reading, and the number of personnel who could respond to large scale outages. As more layoffs occur, these kinds of impacts can be expected to continue.

Pub. Util. Code § 451 does not just mandate safe and reliable service. In addition, the utility is obligated to furnish and maintain adequate, efficient, just and reasonable service to promote the safety, health, comfort and convenience of its customers. As mentioned in the overview of the utilities' proposed plans, both SCE and PG&E have provided evidence that their layoffs will degrade the level of service in certain areas, including the following: lengthening the time for providing the connections necessary to provide service to new customers; lengthening the time for restoring service in the event of an outage or non-emergency service problem; providing actual meter reads on a bi-monthly basis and estimated usage in the other months; and lengthening the ASA time for the utilities' customer call centers. If more layoffs are allowed to take place, as contemplated by the utilities, this will further erode the ability of the utilities to provide adequate, efficient, just and reasonable service.

Neither SCE or PG&E dispute that the layoffs have affected the operations of their respective utilities. Although both SCE and PG&E contend that safety and reliability remain their primary concerns, they also acknowledge that ASA time for customer calls are increasing, and that overtime for call center workers and for field personnel are being reduced. The reduction of overtime for field personnel has or will result in delays in the restoration of service or lengthen the time to connect new customers. The reduction of overtime for call center workers leaves fewer workers available to answer the phones.

We are also concerned that some of the layoffs that have occurred, or that will occur shortly, are taking place during the winter. Winter typically brings a number of weather-related outages. Cost cutting measures which reduce the ability of call center operators to answer calls, and of field personnel to respond to outages and to restore service in a timely manner, do not maintain a level of adequate, efficient, just and reasonable service.

The move by SCE and PG&E to read meters on a bi-monthly basis is another cause for concern. Billing accuracy is especially important to customers when gas prices and rates are volatile and subject to change, and there have been recent electric rate increases. Without monthly reads of actual usage, customers will be uninformed about their actual usage during the estimated usage period. Customers will be unable to see the monthly impact of their usage as compared to “real time” rates. Also, customers will not be able to see the results of their conservation efforts on a monthly basis, especially if they reduce their actual usage for the month below the baseline amount. Furthermore, the lag period of two months before actual usage is billed will likely lead to an increase in the number of customer calls, and to disputes concerning the amount owed during a particular month. More calls and fewer available representatives to answer the calls will lead to a further decline in the level of service, and to more customer frustration.

Although footnote 2 of CCUE's motion suggests that it is not seeking to prevent the utilities from deferring certain maintenance or capital replacement programs, we are concerned that the proposed deferrals may also cause short-term service reliability problems for both PG&E and SCE, and may cause more severe problems if the deferrals continue for a substantial period of time. Based on the record, it does not appear that the deferral of these projects will result in inadequate, inefficient, unjust or unreasonable service at this time. However, if the financial crisis continues, the utilities acknowledge that problems are likely to result from the deferral of certain maintenance and capital replacement projects.

SCE contends in its comments that if the Commission adopts the draft decision as written, that the decision will undermine SCE's Performance Based Ratemaking (PBR) structure that was adopted in D.96-09-092 (68 CPUC2d 275), and subsequently reaffirmed in D.98-07-077 and D.99-12-035. SCE contends that the PBR structure "is based on the proposition that the Commission should set certain performance standards, along with a reward and penalty mechanism for meeting or failing to meet the standards, and then leave it up to the discretion of SCE's management to determine how the utility will meet those standards." SCE argues that there is no evidence at all in the record to show that the reductions it has engaged in are unreasonable, or which support a finding or conclusion that the resulting level of service is inadequate, inefficient, unjust or unreasonable under Pub. Util. Code § 451. That is, if SCE's performance meets the PBR performance standards, then SCE should be considered in compliance with Pub. Util. Code § 451.

We disagree with SCE's reasoning. The PBR mechanism was adopted as a tool to "increase efficiency through lowering costs." (68 CPUC2d at p. 289.) To encourage efficiency, the PBR mechanism breaks the direct link of a utility's costs from its rates, and "includes an incentive for the utility to reduce costs." The PBR structure also includes appropriate standards for service and safety, as well as a productivity adjustment. However, the productivity and service quality measures are used to "find opportunities for cost reductions, which will lower ratepayer bills, increase Edison's profits and minimize the impact on employees." (68 CPUC2d at pp. 289-290.)

The PBR mechanism was not designed to reduce service to a level that is below adequate, efficient, just and reasonable service. Indeed, the starting point of the PBR mechanism is the base revenue requirement. In D.96-09-092, the Commission explicitly acknowledged that SCE was willing to accept as the starting point for the PBR mechanism a base revenue requirement from SCE's 1995 General Rate Case. (68 CPUC2d at p. 284.) The Commission also noted in D.96-09-092 that SCE opposed the Division of Ratepayer Advocates' (DRA)[7] downward adjustment of the base revenue requirement. The decision quoted the following passage from SCE's reply brief to DRA's opening brief:

> "The Commission should not be asked to conclude that a certain level of costs are reasonable (by virtue of the GRC Settlement) and then immediately turn around to extract an additional $390 million out of authorized 1995 revenues. If spending a certain amount of dollars to cover operating costs is reasonable under traditional ratemaking, then spending the *same costs* under PBR to provide *the same level of service* must be

[7] DRA is now known as the Office of Ratepayer Advocates.

> viewed as per se reasonable; conversely, the extraction of additional revenues by DRA (and others) must be condemned as unreasonable." (68 CPUC2d at p. 292, original italics.)

This quote from SCE essentially acknowledges that the base revenue requirement in SCE's PBR mechanism was designed to provide the same level of service, and not a reduced level of service.

Moreover, we cannot accept SCE's suggestion that our adoption of a PBR mechanism was intended to render the Commission powerless to prevent SCE from taking steps that SCE knows will degrade the quality of service to customers. SCE's PBR structure affords SCE's management discretion in the determination of how best to ensure the level of service required by PU Code Section 451. The performance standards in the PBR structure offer a means for the Commission to assess whether SCE is exercising its discretion responsibly and in accordance with the ratepayers' interest in adequate and efficient service. However, the PBR structure and associated performance standards were not intended to permit SCE to knowingly reduce service below levels that SCE had previously provided. Here, SCE has admitted that the effect of its cost-cutting program has been and will continue to be to reduce service below previous levels. Under these circumstances, there is no need for the Commission to await the outcome of annual reports comparing SCE's performance to its performance standards. The Commission already knows, from SCE's own statements, that SCE's cost-cutting measures are degrading customer service.

D. Financial Results

The utilities also acknowledge that the layoffs and other cost cutting measures will not improve their current financial condition. As CCUE points out in its brief and motion, the savings would barely make a dent in the cost of their wholesale electric costs. The savings resulting from the layoffs and other cost cutting measures, though significant in dollars, are nominal when the savings are compared to the size of the utilities' debts. However, the layoff savings have a real effect upon the level of service provided by PG&E and SCE.

Both PG&E and SCE acknowledge in their briefs that the Commission may involve itself in the management of a utility when necessary to ensure reasonable rates or service. Based on the record, we conclude that the layoffs that SCE and PG&E have implemented, and the reduction in overtime hours, have reduced the level of service below what customers reasonably expect as an adequate, efficient, just and reasonable level of service. That is, we conclude that the practices and services resulting from the layoffs and the cutback in overtime have resulted in inadequate, unjust and unreasonable service and practices. The upcoming proposed layoffs of both PG&E and SCE would further exacerbate the decline in the level of service. For the reasons stated above, CCUE's motion to prevent the layoffs of non-management employees, as presently contemplated or already implemented by SCE and PG&E, is granted.

E. Action on Past Layoffs

The granting of CCUE's motion does not end our inquiry into the layoffs and cost cutting measures of SCE and PG&E. Pursuant to Pub. Util. Code § 761, after the Commission finds that the practice or service of a public utility is unjust, unreasonable, inadequate or insufficient, the Commission shall determine, and by order or rule, fix the practice or service. In accordance with that code section, we shall rescind the layoffs that SCE and PG&E have implemented, or are in the process of implementing, and order SCE and PG&E to restore and staff those positions to the extent that the positions that were terminated adversely affect the utilities' ability to: (1) fully staff their customer call centers; (2) read meters on a monthly basis for all customers; and (3) timely respond to service calls and outages, and to connect new customers. In addition, PG&E and SCE are directed to staff their customer call centers so that they can handle the volume of incoming calls, and to staff their T&D units so that field personnel can continue to connect new customers and respond to and remedy outages and other service-related problems in the same amount of time that existed prior to the utilities' financial problems. All future layoffs of utility personnel, contractors, or hiring hall personnel which adversely affect the aforementioned services and practices shall be barred until further order of the assigned Commissioner unless the utilities can substantiate that the layoffs will not prevent the utilities from furnishing and maintaining adequate, efficient, just and reasonable service.

F. Maintenance and Replacement

The cities of Oakland, San Francisco and San Leandro, and the counties of Alameda and Los Angeles, have filed or seek leave to file comments to the draft decision. All of their comments express opposition to the actions by PG&E and SCE to suspend the undergrounding of utilities. The cities and counties contend that some of these undergrounding projects are in the design stages, are out to bid, have already begun, or are close to completion. In some cases, the undergrounding projects are to coincide with other street improvement projects that are being undertaken concurrently by the cities and counties.

The issue of the deferral of undergrounding projects was not squarely raised by the CCUE motion. As a result, the cities and counties did not bring this issue to the Commission's attention until their comments to the proposed decision were submitted. Thus, at this time, the Commission lacks a record upon which to determine whether the utilities should be required to resume their undergrounding projects. However, the cities and counties may file with the Commission any appropriate pleadings designed to place this issue before the Commission for resolution. We note that nothing in this order is intended to prejudge this issue should it be brought before the Commission.

We will permit PG&E and SCE to proceed with the deferral of their maintenance and capital replacement projects at this time. However, we are concerned that if the financial crisis continues, the deferral of these projects may compromise the safety, service and reliability of the utilities' operations, or such deferrals may affect the utilities' provisioning of adequate, efficient, just and reasonable service. Therefore, we will require SCE and PG&E to provide the Commission, and the parties to this proceeding, with monthly updates regarding their cost cutting measures. However, if either PG&E or SCE contemplates a significant change to their cost cutting measures, which deviate from what was represented to the Commission in connection with this motion, then the utility shall be required to provide an update on the change and its effect within three days of the change. These monthly updates shall be provided on the first business day of every month, and shall continue until the President of the Commission issues a ruling terminating the reporting requirement.

G. Allocation And Rate Components

We are also concerned about the "rate freeze" effect of using cost cutting measures to pay for costs incurred during the rate freeze. In addition, we are concerned that ratepayers have been required to pay as part of their rates, certain rate components which reflect a certain and expected level of adequate, efficient, just and reasonable service.

Due to the price of wholesale electricity and the problems that have resulted from that, SCE and PG&E have cut, reduced or deferred certain expenditures. Some of these cost savings may be coming from certain rate components which ratepayers continue to pay for a level of safety, service, and reliability that is no longer being offered. Also, these cost savings are being used by the utilities to pay various costs on a day-to-day basis, including costs that have been incurred during the rate freeze. Based on those two effects, we will adopt TURN's suggestion that appropriate ratemaking accounting devices be adopted to examine whether the revenue requirement for each utility should be adjusted to reflect the cost savings resulting from reductions in service, and to examine whether the cost cutting measures result in the payment of costs incurred during the rate freeze.

We will therefore direct SCE and PG&E to establish a memorandum account to record the costs and savings associated with the cost cutting measures, that have already been implemented, and which will be implemented by the utilities, including any layoffs that do not affect the aforementioned areas. The Commission will then examine these costs and savings, their effects on the rate freeze and the revenue requirement, and determine whether adjustments should be made. This examination should take place when circumstances return to normal.

Since neither TURN's suggestion nor the utilities provided any specific details as to what costs or savings should be booked to a memorandum account, the parties to this proceeding should be provided with an opportunity to comment on the design of the memorandum account, and other accounting mechanisms that might be needed to make the adjustments. Should the parties desire, a workshop could be held to discuss these accounting mechanisms and possible adjustments.[8] Parties may file comments on the design of the accounting mechanisms within 20 days from the mailing date of this decision, and reply comments within 30 days from the mailing date of this decision. The Commission will then issue another decision detailing what items should be recorded in the memorandum account and other accounting mechanisms.

H. Other Issues

PG&E has raised two other issues. First, PG&E requests that the ASA time requirements be temporarily suspended due to the high volume of calls received by PG&E's call center. Second, PG&E requests that the Commission temporarily suspend the requirement that meters be read once a month due to its cost cutting measures.

Based on the evidence presented at the hearing, and as discussed above, the layoffs and the restriction in overtime hours have reduced the level of service with respect to the answering of customer calls, and reading of customer meters on a monthly basis. The efforts of PG&E and SCE to lengthen the time for answering customer calls and to go to bi-monthly reading of meters is unacceptable. Such actions by PG&E and SCE would reduce the level of service below the § 451 requirement that the utilities furnish and maintain adequate, efficient, just and reasonable service. If PG&E and SCE are permitted to lengthen their ASA time or to engage in bi-monthly meter reads, the utilities would not be "maintaining" the level of service that they provided prior to the utilities' financial problems. Therefore, the request of PG&E to suspend the ASA time for call center calls, and to temporarily suspend the monthly meter read

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[8] Parties should indicate in their comments whether a workshop would be helpful.

requirement, are denied. PG&E and SCE shall continue to abide by the ASA time mandated by the Commission, and to provide actual monthly meter reads for its customers.[9]

I. Review and Comment

Proposed decisions are generally subject to a 30-day review and comment period as provided for in Pub. Util. Code § 311(d).[10] However, § 311(d) provides that the 30-day period may be reduced or waived in an unforeseen emergency situation. An "unforeseen emergency situation" is described in Rule 81 as "a matter that requires action or a decision by the Commission more quickly than would be permitted if advance publication were made on the regular meeting agenda." Examples of an unforeseen emergency situation include a request "for relief based on extraordinary conditions in which time is of the essence," and "Unusual matters that cannot be disposed of by normal procedures if the duties of the Commission are to be fulfilled." (Rule 81(f) and (g).) The failure to timely act on CCUE'' motion could result in the layoffs of a number of utility employees whose jobs affect the provisioning of adequate

[9] We also note that PG&E's request is procedurally defective in that it is seeking to modify or waive an existing rule of order of the Commission without providing affected parties with a notice and an opportunity to be heard. (See Pub. Util. Code § 1708.)

[10] The "Draft Decision of ALJ Wong" was mailed to the parties on February 23, 2001. However, the draft decision should have been issued as a "proposed decision" pursuant to Pub. Util. Code § 311(d) and Rules 77.1 to 77.5. The designation of a draft decision was used because at the time this agenda item was first noticed on the February 8, 2001 agenda, which occurred on January 29, 2001, it was still uncertain whether the hearings scheduled for February 2 and 5, 2001 would be held. Although the hearings were held, the draft decision that was mailed for comment neglected to update the fact that hearings were held in this proceeding.

service to customers, including the ability to restore service after outages. Particularly in the winter storm season, such circumstances could endanger the public health and welfare of the citizens of this state if the Commission does not act on the motion in a timely manner. Therefore, the 30-day public review and comment period on this proposed decision is reduced.

The “draft decision” of the Administrative Law Judge (ALJ) in this matter was mailed to the parties on February 23, 2001 in accordance with Section 311(g)(1) of the Pub. Util. Code and Rule 77.7 of the Rules of Practice and Procedure. Interested parties were provided with the opportunity to file opening and reply comments to the “draft decision.” Those comments have been reviewed and the decision has been revised to reflect the comments.

On March 2, 2001, the County of Alameda filed a motion for leave to late file its comments to the draft decision. The County’s motion states that it would have intervened earlier in the proceeding had the effects of PG&E’s cost cutting measures been known earlier. In addition, the motion states that PG&E never formally notified the County of its intent to suspend the undergrounding projects, and notice of this proceeding was never provided to the County. Pursuant to Rules 45 and 77.5, the County’s motion for leave to late file its comments to the draft decision is granted. The Docket Office is directed to file the “Comments of the County of Alameda On the Draft Decision of ALJ Wong Dated February 23, 2001” as of March 2, 2001.

Findings of Fact

1. CCUE filed an emergency motion on January 8, 2001 to prevent PG&E and SCE from laying off workers until the Commission has had a full opportunity to review such proposals.

2. Responses to CCUE's motion were filed by PG&E, SCE, Adams, and TURN.

3. An ACR was issued on January 23, 2001 directing PG&E and SCE to provide additional information about the impact of the proposed layoffs.

4. Hearings into CCUE's motion were held on February 2 and 5, 2001.

5. SCE's counsel represented that SCE was planning to issue layoff notices for its part-time or full-time employees on February 5 and 6, and that the layoffs would be effective two weeks later.

6. The Commission provided notice in its agenda that the Commission was planning to take action on CCUE's motion.

7. Petitions to intervene were filed by the City of Oakland and the County of Alameda on March 1, 2001 and March 2, 2001, respectively.

8. The Legislature has found and declared that the delivery of electricity over transmission and distribution systems is currently regulated, and will continue to be regulated to ensure system safety and reliability for all market participants.

9. The Commission's concern is whether the layoffs and cost cutting measures affect the utilities' provisioning of adequate, efficient, just, and reasonable service that are necessary to promote the safety, health, comfort, and convenience of its customers, employees, and the public.

10. The collective bargaining agreements cover, among other things, the terms and conditions of employment and layoffs.

11. Most of the layoffs that have already occurred affected contractors, hiring hall employees, and temporary and part-time workers.

12. The contemplated layoffs by SCE and PG&E in the upcoming months appear to affect the same category of workers that have already been laid off.

13. Based on the record in this proceeding, the layoff of these workers has adversely affected the T&D operations, the call centers, meter reading, and the number of personnel who could respond to large scale outages.

14. As more layoffs occur, these kinds of impacts can be expected to continue.

15. SCE or PG&E have provided evidence that their layoffs will degrade the level of service in certain areas, including the following: lengthening the time for providing connections to new customers; lengthening the time for restoring service in the event of an outage or non-emergency service problem; providing actual meter reads on a bi-monthly basis and estimated usage in the other months; and lengthening the ASA time for the utilities' customer call centers.

16. The reduction of overtime for field personnel and call center workers has or will result in delays in the restoration of service or connecting new customers, and answering customer calls.

17. Cost cutting measures which reduce the ability of call center operators to answer calls, and of field personnel to respond to outages and to restore service in a timely manner, do not maintain a level of adequate, efficient, just and reasonable service.

18. Billing accuracy is important to customers when gas prices and rates are volatile and subject to change, and when there have been recent electric rate increases.

19. Bi-monthly meter reads are likely to lead to an increase in the number of customer calls, and to disputes concerning the amount owed during a particular month.

20. With more customer calls, reduction of the number of available representatives to answer the calls will lead to a further decline in the level of service, and to more customer frustration.

21. The deferral of certain maintenance or capital replacement programs may cause short-term service reliability problems, and may cause more severe reliability problems if the deferrals continue for a substantial period of time.

22. The PBR mechanism was adopted as a tool to increase efficiency through lowering costs.

23. The PBR mechanism was not designed to reduce service to a level that is below adequate, efficient, just and reasonable service.

24. The savings from the layoffs and other cost cutting measures are nominal when compared to the size of the utilities' debts, but the layoffs have a real effect upon the level of service provided by PG&E and SCE.

25. Both utilities acknowledge that the Commission may involve itself in the management of a utility when necessary to ensure reasonable rates or service.

26. The layoffs that SCE and PG&E have implemented, and the reduction in overtime hours, have reduced the level of service below what customers reasonably expect as an adequate, efficient, just and reasonable level of service.

27. The upcoming proposed layoffs of both PG&E and SCE would further exacerbate the decline in the level of service.

28. Some of the cost savings that SCE and PG&E have made may be coming from certain rate components which ratepayers continue to pay for a certain level of adequate, efficient, just and reasonable service.

29. The cost savings are being used by the utilities to pay various costs on a day-to-day basis, including costs that have been incurred during the rate freeze.

30. If PG&E and SCE are permitted to lengthen their ASA time or to engage in bi-monthly meter reads, the utilities would not be maintaining the level of service that they provided prior to the utilities' financial problems.

31. Proposed decisions are generally subject to a 30-day review and comment period as provided for in Pub. Util. Code § 311(d)(1), but may be reduced or waived in an unforeseen emergency situation.

32. The ALJ's "draft decision" was mailed to the parties for comment on February 23, 2001.

33. On March 2, 2001, the County of Alameda, the City of San Leandro, filed a motion for leave to late file its comments to the draft decision.

Conclusions of Law

1. The petitions to intervene of the City of Oakland, the City of San Leandro, and the County of Alameda are granted.

2. The Commission has the authority to ensure the safety and reliability of a public utility's system, and that the utility is providing adequate, efficient, just and reasonable service.

3. The Commission may supervise and regulate every public utility in the state and may do all things which are necessary and convenient in the exercise of such power and jurisdiction.

4. If the Commission finds after a hearing that the rules, practices or service of a public utility are unjust, unreasonable, unsafe, improper, inadequate or insufficient, the Commission shall fix the rules, practices or service.

5. The collective bargaining agreements do not govern nor control the Commission's statutory duty to ensure that the utilities provide adequate, efficient, just and reasonable service.

6. The practices and services resulting from the layoffs and the cutback in overtime have resulted in inadequate, unjust and unreasonable service and practices.

7. CCUE's motion to prevent the layoffs of non-management employees as presently contemplated or already implemented by SCE and PG&E should be granted, and the layoffs that have already been implemented should be rescinded, and the utilities should be ordered to restore and staff the positions to the extent that the terminated positions adversely affect the utilities' ability to fully staff their customer call centers, read meters on a monthly basis, and to timely respond to service calls and outages and to connect new customers.

8. PG&E and SCE should be ordered to staff their customer call centers so that they can handle the volume of incoming calls, and to staff their T&D units so that field personnel can continue to connect new customers and respond to and remedy outages and other service-related problems in the same amount of time that existed prior to the utilities' financial problems.

9. All future layoffs which adversely affect the aforementioned services and practices shall be barred until further order of the assigned Commissioner unless the utilities can substantiate that the layoffs will not prevent the utilities from furnishing and maintaining adequate, efficient, just and reasonable service.

10. PG&E and SCE shall be allowed to proceed with the deferral of their maintenance and capital replacement projects at this time.

11. SCE and PG&E should be directed to provide monthly updates about their cost cutting measures, and updates regarding significant changes to their cost cutting measures.

12. Based on the effects of the cost cutting measures, TURN's suggestion that appropriate ratemaking accounting devices be authorized to examine the need for adjustments should be adopted.

13. SCE and PG&E should establish memorandum accounts to record the costs and savings associated with the permitted layoffs and cost cutting

measures that have already been implemented, and which will be implemented by the utilities.

14. The Commission should examine the costs and savings recorded in each utility's memorandum account, their effect on the rate freeze and the revenue requirement, and determine whether adjustments should be made.

15. The parties should be provided with an opportunity to comment on the design of the memorandum account, and other accounting mechanisms that might be needed to make the adjustments.

16. A subsequent Commission decision should issue once parties have had the opportunity to comment on what items should be recorded in the memorandum account and other accounting mechanisms.

17. PG&E's request to temporarily suspend the ASA time for its call center, and that it be permitted to read meters on a bi-monthly basis, is denied. PG&E and SCE shall continue to abide by the ASA time mandated by the Commission, and to provide monthly meter reads for its customers.

18. On the Commission's own motion, the full 30-day public review and comment period on today's decision is reduced.

19. The County of Alameda's motion for leave to late file its comments to the draft decision is granted.

O R D E R

IT IS ORDERED that:

1. The January 8, 2001 emergency motion of the Coalition of California Utility Employees (CCUE) seeking to prevent the layoffs of non-management employees by Pacific Gas and Electric Company (PG&E) and Southern California Edison Company (SCE) is granted as set forth below.

a. The layoffs that PG&E and SCE have implemented, or are in the process of implementing, are rescinded to the extent that the positions that were terminated adversely affect the respective utility's ability to: fully staff their customer call centers; read meters on a monthly basis for all customers; timely respond to service calls and outages; and to connect new customers.

   (1) PG&E and SCE shall restore and staff the positions associated with the rescinded layoffs which adversely affect the three aforementioned areas of service.

   (2) PG&E and SCE shall provide in their first monthly update (as described in Ordering Paragraph 2) and additional updates as may be needed, a description of the positions which were previously terminated which adversely affect the three areas of service, and provide an explanation as to whether the positions have been restored and staffed.

b. PG&E and SCE are directed to staff their customer call centers so that they can handle the volume of incoming calls, and to staff their T&D units so that field personnel can continue to connect new customers and respond to and remedy outages and other service-related problems in the same amount of time that existed prior to the utilities' financial problems.

   (1) PG&E and SCE shall provide in their first monthly update, and additional updates as may be needed, a description of their staffing policies to address the service issues identified in Ordering Paragraph 1.b. above.

c. Until further order of the assigned Commissioner, PG&E and SCE are barred from engaging in any other layoffs which adversely affect the service areas identified in Ordering Paragraph 1.a. above.

(1) If PG&E and SCE wish to implement other layoffs which do not adversely affect the aforementioned service areas, they should include in their monthly update a description of the number of positions to be laid off and why those terminated positions do not adversely affect the service areas identified earlier.

2. PG&E and SCE shall file with the Docket Office, and provide the Commission and the parties to this proceeding, with a monthly update regarding their cost cutting measures, as follows:

a. Each utility shall be required to file on the first working day of every month, a monthly update on the status of their respective cost cutting measures. The first monthly update shall be due on April 2, 2001.

b. If significant changes occur to the cost cutting measures, which deviate from what was represented to the Commission in connection with CCUE's motion, then the utility shall be required to file an update on the change and its effect within three days of the change.

c. The President of the Commission may terminate the requirement that PG&E and SCE file monthly updates by issuing a ruling to that effect.

3. The suggestion of The Utility Reform Network to establish appropriate ratemaking accounting devices to examine whether the revenue requirement for PG&E and SCE should be adjusted to reflect the cost cutting savings resulting from the reductions in service, and to examine whether the cost cutting measures of PG&E and SCE result in the payment of costs incurred during the rate freeze, is adopted on the following terms and conditions:

a. PG&E and SCE are authorized and required to establish a memorandum account to record the costs and savings associated with the permitted layoffs and cost cutting measures that have already been implemented, and which will be implemented by the utilities, as noted in the text of this decision.

b. PG&E and SCE may be authorized in a future decision to establish other accounting mechanisms that may be needed to make possible adjustments as determined by the Commission.

c. The parties to this proceeding may file comments and reply comments on the design of the memorandum account, and other accounting mechanisms that might be needed to make possible adjustments.

   (1) The comments shall be filed with the Docket Office within 20 days from the mailing date of this decision, and served on the service list.

   (2) Reply comments shall be filed with the Docket Office within 30 days from the mailing date of this decision, and served on the service list.

d. Following the filing of the comments and reply comments, the Commission will issue a decision detailing what items should be recorded in the memorandum account and other accounting mechanisms.

e. The Commission shall hold a hearing in the future to examine the memorandum account and any other related accounts, to determine whether adjustments should be made as a result of the use of savings from the cost cutting measures undertaken by PG&E and SCE.

4. PG&E and SCE shall continue to abide by all Commission mandated average speed of answer times for their respective customer call centers, and shall continue to provide actual monthly meter reads (except as provided for in Rule 17 of the electric rules of PG&E and SCE) for their customers.

5. The Docket Office is directed to file the "Comments of the County of Alameda On the Draft Decision of ALJ Wong Dated February 23, 2001" as of March 2, 2001.

This order is effective today.

Dated March 15, 2001, at San Francisco, California.

LORETTA M. LYNCH
President
HENRY M. DUQUE
CARL W. WOOD
GEOFFREY F. BROWN
Commissioners

I will file a dissent.

/s/ RICHARD A. BILAS
Commissioner

I will file a concurrence.

/s/ HENRY M. DUQUE
Commissioner

I will file a concurrence.

/s/ GEOFFREY F. BROWN
Commissioner

Commissioner Richard A. Bilas, dissenting:

I strongly dissent from today's order. I have reviewed the record of this proceeding and do not find the adverse effects that the order espouses. Instead, I see two utilities struggling to keep the lights on consistent with safe operation and the least impact on customers. Edison and PG&E are billions of dollars in debt and cannot make payments as they come due. They are begging for forbearance and dancing on the precipice of bankruptcy. Edison testified that the conserved cash would be used for whatever it can to try and keep the lights on for as long as possible. PG&E testified that it is balancing cash on a daily basis and declared that every dollar really does count. Our focus should not be on the relation of the amount of savings to the huge unpaid debt of the utilities. Our focus, like the utilities', should be on reasonable cash conservation. The utilities are well aware of their obligation to serve. Today's order is an insult to the thousands of diligent utility employees for the benefit of a few union employees, many of them temporary, part-time, and hiring hall employees.

The record shows that employee overtime would be permitted to make a condition safe and that there will be no impact on power generation, call center staffing, vegetation management, or tree trimming programs. Testimony also shows that typical emergency response efforts for such things as routine electrical outages, gas leaks, or weather-related damage should not be affected. The dire scenario portrayed in today's order is not supported by the record. My alternate order was supported by the record.

Had my alternate order prevailed, it is true that call center answer times would have increased by about 30 seconds, but they will still be under or right at a minute. I consider this to be justified because the call volumes have jumped exponentially and workers are exhausted from high levels of mandated overtime that could result in voluntary attrition. A 55% mandatory overtime is not something that can be sustained by employees. The final decision's sleight of hand in deleting the proposed decision's directive to reinstate mandatory overtime should not distract anyone from the issue. The utilities are required to maintain stringent call volume and service levels. High levels of overtime will in fact be required to do so. The record makes this clear. I contend that the Commission required answer times were not established with today's crisis situation in mind. And I believe the call volume is related largely to complaints over soaring prices not safety issues. As I said to my colleagues on the dais: Have any of you tried to call your HMO recently? Health concerns are a real safety issue. By comparison, a utility answering a call within sixty seconds sounds pretty good to me. For these reasons, my alternate order would have suspended the 20 to 30 second answer time requirements retroactive to January 1 and for 3 months from today's date.

I concur, however, with the order's prohibition of the suspension of monthly meter reads. Consumers need accurate usage information in order to conserve electricity and gas and keep their costs down. I foresee rate increases ahead that will make such accurate tracking even more critical.

I also question seriously the memorandum tracking account set forth in today's order. I believe the Commission should revisit the issue of whether utility cost-cutting measures are a reprioritization of or a net reduction from performance based ratemaking or general rate case standards and expenditures. Meeting these standards does not ipso facto mean that the utility has fulfilled its obligation to serve in every way. But, these standards are what we believe it will take to do so, and are part of the regulatory compact, something we seem to be reneging on more and more. This Commission has order instituting investigation authority to address real, rather than imagined, service problems. Fundamental fairness requires we use that vehicle rather than today's backdoor memorandum account route.

In addition, I agree with SCE and PG&E that the Commission should avoid micromanagement of the cost-cutting measures that they have already implemented or plan to implement in the next four months. Both PG&E and SCE acknowledged in their briefs that the Commission may involve itself in the management of a utility when it affects utility rates or service. After a thorough review of the record, I do not believe that the present cost-cutting measures of SCE and PG&E merit our interference at this time. (<u>See</u>, <u>In re Pacific Telesis Group</u>, 71 CPUC2d 351,396 (1997) declaring that we intervene in personnel matters only if we perceive problems which are potentially unlawful or which might have harmful effects on labor practices, utility rates, or service. <u>See also</u>, <u>General Telephone Co. v. Public Utilities Commission</u>, 34 Cal.3d 817,826-27 (1983).) The utilities' cost-cutting measures do impact service to some degree, and may impact safety and reliability if more drastic cuts are needed in the future or if further deferrals of maintenance or replacement programs are required. However, the record is clear that the point at which the cost-cutting measures start to have harmful effects by having noticeable impacts or interference with the safety, service, and reliability of the operations of SCE and PG&E has not been reached yet. Given the extraordinary circumstances which SCE and PG&E find themselves in, they should be given some leeway to manage their financial affairs, and to decide where they can best save on costs and where to apply cost savings. (<u>See</u>, <u>In re Pacific Telesis Group</u>, *supra*, stating that utility managers should assume the risk of their operations rather than rely on the Commission's constant oversight.)

The micromanaging approach of today's order, cloaked in the disguise of safety concerns, is not justified by the record of this proceeding and is regulatory overkill. This Commission has pushed the utilities into a financial corner. They are not paying their bills. They are on the verge of bankruptcy and now the majority of the Commission says that they cannot use their best judgment on how to conserve cash. Once again I ask, why is the state claiming the utilities must not go bankrupt while this Commission acts to push them ever closer?

Therefore, I must respectfully dissent.

/s/ RICHARD A. BILAS
RICHARD A. BILAS
Commissioner

San Francisco, California
March 15, 2001

Commissioner Henry M. Duque, concurring:

It is imperative that employee and public safety not be compromised by the proposed layoffs. In particular, I am concerned about further delays with undergrounding projects. The utilities must continue to operate the system safely and in accordance with Commission regulations.

Yet I have concerns about our jurisdiction and am compelled to raise them via a concurrence. The proposed decision states that layoffs fall under the terms and conditions of employment. If such an activity is arguably prohibited or protected by the National Labor Relations Act (NRLA), the Commission should defer to the exclusive competence of the National Labor Relations Board (NRLB). It is the right of the NRLB to determine in the first instance what activity is or is not within the scope of the NRLA. This avoids state interference with national labor policy. The proposed decision fails to adequately acknowledge or address my concerns.

I am also troubled that the Commission is moving beyond regulation and into micro-management. The utilities are simply responding to the current financial situation, which results in the need to reduce expenses. I do not believe that the proposed layoffs have been shown to affect the safety, reliability or service of the electric system. However, out of the abundance of caution, I reluctantly support the proposed decision.

__/s/ HENRY M. DUQUE____
Henry M. Duque
Commissioner

March 15, 2001

San Francisco

Commissioner Geoffrey F. Brown, Concurring:

I am voting for this item today with some reservations. The purpose of this decision is to ensure that public utility customers continue to receive safe and reliable service. I strongly agree with this sentiment. Aside from rates, there is no more important function for this Commission than to make sure that utilities meet both our standards and Legislative requirements.

However, there are particular elements of this order that concern me. First, I am not entirely convinced that the record in this case supports the findings and conclusions that service quality has, in fact, deteriorated to inadequate and unreasonable levels at this time due to layoffs. This may be the case, but I would have been more comfortable if there was more evidence to this effect.

Second, I tend not to prefer regulatory micromanagement. Mandating necessary levels of service quality is appropriate, but we generally should not tell utilities how to achieve such outcomes. There are valid management prerogatives, as well as important labor-management issues, that may be eclipsed when we start to tell utilities how to meet their goals, instead of simply telling them what the goals should be.

Finally, I am conscious of the financial difficulties of PG&E and SCE. These firms are near bankruptcy, owe billions in debt from excessive wholesale market costs and a retail rate freeze, and have been unable to pay bills amounts due to QFs, the ISO, the PX and others. In this circumstance, I can understand the inclination to cut costs.

Ultimately, however, the obligation of my office is to the customers. While the evidence may be susceptible to interpretation, there is a substantial likelihood that unreasonable service levels already exist or will exist in the near future due to layoffs. While micromanagement is to be avoided, the direct connection between layoffs and diminished service cannot be ignored. While the utilities' financial straits are indeed dire, service and safety can never be compromised.

Therefore, if I err, it must be on the side of the customers.

/s/ GEOFFREY F. BROWN
GEOFFREY F. BROWN
Commissioner

San Francisco, California
March 15, 2001